

REMARKS

This Response is submitted in response to the non-final Office Action mailed on December 22, 2004. Claims 9-26 are pending in this application. In the Office Action, Claims 9-26 are rejected under 35 U.S.C. §103. In view of the response set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, Claims 9-26 are rejected under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 5,665,406 to Reed et al. ("*Reed*") in view of U.S. Patent No. 5,656,296 to Khan et al. ("*Khan*"). Applicants believe these rejections are improper and respectfully traverse them for at least the reasons set forth below.

Applicants respectfully submit that there is no suggestion or motivation to combine the cited references to obtain the claimed invention, and even if combinable, all of the claimed elements are not taught or suggested by the cited references. The instant claims recite, in part, a gum center and a coating comprising a medicament that surrounds the gum center, the coating comprising at least 50% by weight of the chewing gum product.

Applicants respectfully submit that there is no suggestion or motivation to combine the cited references to obtain the claimed invention. For example, *Reed* is entirely directed towards a chewing gum having a polyol coating and no medicament in the coating. See, *Reed*, Abstract. *Id.* *Khan* is directed to a dual control sustained release drug delivery system that comprises a core and a porous coating over the core. See, *Khan*, Abstract. *Reed* is focused on an improved chewing gum. *Khan* is focused on drug delivery. Consequently, there is no direction provided in the cited references suggesting how they should be combined to obtain the claimed invention. Indeed, Applicants respectfully submit that it is only with an improper hindsight reconstruction of Applicants' claimed invention that the Patent Office is able to attempt to piece together a rejection of the claims.

Applicants also respectfully submit that, even if combinable, the cited references do not disclose all of the claimed elements. For instance, *Reed* fails to disclose a medicament in the coating or even any medicament anywhere in the product. The Patent Office admits same. See, Office Action, page 3. *Khan* fails to remedy the deficiencies of *Reed*. Contrary to the present

claims, *Khan* fails to disclose or suggest a medicament in the coating. Indeed, *Khan* teaches away from this concept. In *Khan* a sustained release drug is provided by coating a medicament. The medicament is actually in the core that is then coated. For example, *Khan* recites that the “drug delivery system contains a core comprising a medicament and a waxy material and a porous coating layer over the core comprising a pH-independent water-insoluble polymer and a water-soluble film forming polymer.” See, *Khan*, column 2, lines 46-51. In fact, nowhere in the specification does *Khan* specifically disclose or suggest a medicament in the coating. Rather, the whole point of *Khan* is to coat a core having a medicament. In contrast, the present invention places the medicament within the coating, which is the exact opposite concept of *Khan*.

Although the Patent Office alleges that *Khan* teaches that the coating layer of the drug deliver system may also contain sweetening agents and active agents, these ingredients are not medicaments. See, Office Action, page 3. In fact, *Khan* actually discloses that the coating layer may contain conventional excipients (i.e. inert ingredients) and additives that function to facilitate process or storing. See, *Khan*, column 7, lines 1-4. One having ordinary skill in the art would not consider these ingredients as medicaments. Further, *Khan* clearly distinguishes its medicaments by listing them. See, *Khan*, columns 3-4. Thus, if anything, *Khan* can be said to teach away from the claimed invention.

For the reasons discussed above, the combination of *Reed* in view of *Khan* does not teach, suggest, or even disclose the claimed invention, and thus, fails to render the claimed subject matter obvious for at least these reasons. Accordingly, Applicants respectfully request that the obviousness rejections with respect to Claims 9-26 be reconsidered and the rejections be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

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